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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,390	04/11/2001	C. Richard Triola	CRT044UT	3769

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EXAMINER

BACKER, FIRMIN

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 07/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/833,390

Applicant(s)

TRIOLA, C. RICHARD

Examiner

Firmin Backer

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

***Response to Request for Reconsideration***

This is in response to a request for reconsideration file May 27<sup>th</sup>, 2003. Claims 1-20 are being reconsidered in this action.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Martin, Jr. et al. (U.S. Patent No. 6,304,860).

3. As per claims 1, 11, 17, Martin, Jr. et al. teaches an apparatus (*fund allocation methodology*) for real state escrow transactions (*real estate transaction*), comprising a computer based automation system (*networks, fig 2*), having components providing implementation, management, and tracking of escrow transactions, wherein data for implementing, managing, and tracking the escrow transactions is accessible for specific parties to the escrow transactions (*see abstract, fig 2, 3, column 4 line 44-59, 5 line 36-61, 10 line 22-56, table 1, column 13 and 14*).

4. As per claims 2, 12, Martin, Jr. et al. teaches an apparatus which includes program modules distributed between principals and parties to the escrow transactions, providing predetermined party associated data entry and access (*see abstract, fig 2, 3, column 4 line 44-59, 5 line 36-61, 10 line 22-56, table 1, column 13 and 14*).

5. As per claims 3, 13, Martin, Jr. et al. teaches a program modules including security measures providing for a variety of levels for the associated data entry and access to the escrow transactions (*see abstract, fig 2, 3, column 4 line 44-59, 5 line 36-61, 10 line 22-56, table 1, column 13 and 14*).

6. As per claims 4, Martin, Jr. et al. teaches a client-server computer system for escrow of property comprising: at least one client module associated with at least one client party for initiating an escrow process with at least one escrow party, and at least one server module associate with the escrow party, wherein a specific escrow account between the client party and the escrow party is established, maintained, tracked, and consummated via the client-server computer system (*see abstract, fig 2, 3, column 4 line 44-59, 5 line 36-61, 10 line 22-56, table 1, column 13 and 14*).

7. As per claims 5, Martin, Jr. et al. teaches a system comprising on-line entry and transmission of escrow initiation, escrow instructions, escrow status tracking, and escrow consummation between the server party and the client party (*see abstract, fig 2, 3, column 4 line 44-59, 5 line 36-61, 10 line 22-56, table 1, column 13 and 14*).

8. As per claims 6, Martin, Jr. et al. teaches a system wherein at least one server module associated with the escrow party further comprising: on-line entry and transmission of service provider data between the server party and at least one service provider (*see abstract, fig 2, 3, column 4 line 44-59, 5 line 36-61, 10 line 22-56, table 1, column 13 and 14*).

9. As per claims 7-10 Martin, Jr. et al. teaches a system comprising computer code providing data security and digital identity authentication for each party, digital tracking for tracking required documentation and transfer of funds or other compensation transfers throughout the escrow process and final closing of the escrow process (*see abstract, fig 2, 3, column 4 line 44-59, 5 line 36-61, 10 line 22-56, table 1, column 13 and 14*).

10. As per claims 14, Martin, Jr. et al. teaches a process for a computerized escrow transaction comprising: providing escrow account, escrow status, broker status, lender status, buyer status, seller status, and vendor status via a centralized server associated with an escrow officer; and connecting parties to the computerized escrow transaction using multiple computer network access devices via connectivity types which include but are not limited to wireless, satellite, dial-up, or leased communications (*see abstract, fig 2, 3, column 4 line 44-59, 5 line 36-61, 10 line 22-56, table 1, column 13 and 14*).

11. As per claims 15, Martin, Jr. et al. teaches a system for real-time or near-real-time escrow transactions, comprising: an appropriate data, application, and transactional management

network programs and supporting network based applications for performing at least one of the escrow services selected from a group including receiving and storing escrow instructions upon submission by a party to the escrow transaction via a computerized communications device, disseminating instructions to all relevant parties by computer; providing escrow documentation, providing escrow documentation approvals; automating order specified services real-time and near-real-time display of escrow instructions, status, and activity, on-line digital identification authentication; transfer of ownership, closing escrow, releasing of escrow funds; and digital transfer of escrow funds (*see abstract, fig 2, 3, column 4 line 44-59, 5 line 36-61, 10 line 22-56, table 1, column 13 and 14*).

12. As per claims 16, Martin, Jr. et al. teaches a method of doing business using an internet comprising: providing an on-line escrow account for parties to a transaction; providing on-line transactional account management services with respect to the on-line escrow account for the parties; and providing secure access to the on-line escrow account limited to the parties and third parties using on-line identification authentication (*see abstract, fig 2, 3, column 4 line 44-59, 5 line 36-61, 10 line 22-56, table 1, column 13 and 14*).

13. As per claims 18, Martin, Jr. et al. teaches a memory wherein the program code allowing escrow transaction data access only for specific parties to the escrow transaction further comprises: program code for identification authentication (*see abstract, fig 2, 3, column 4 line 44-59, 5 line 36-61, 10 line 22-56, table 1, column 13 and 14*).

14. As per claims 19, Martin, Jr. et al. teaches a memory wherein the program code providing implementation, management, tracking, and closing of specific escrow transactions further comprises: program code for digital signatures (*see abstract, fig 2, 3, column 4 line 44-59, 5 line 36-61, 10 line 22-56, table 1, column 13 and 14*).

15. As per claims 20, Martin, Jr. et al. teaches a memory comprising: program code for a method of doing business using an internet, the code including computerized processes for providing an on-line escrow account for parties to a transaction, providing on-line transactional account management services with respect to the on-line escrow account for the parties, and providing secure access to the on-line escrow account limited to the parties and third parties using on-line identification authentication (*see abstract, fig 2, 3, column 4 line 44-59, 5 line 36-61, 10 line 22-56, table 1, column 13 and 14*).

### ***Response to Arguments***

16. Applicant's arguments filed May 27<sup>th</sup>, 2003 have been fully considered but they are not persuasive.

a. Applicant argues that the prior art (Martin et al) failed to teach an inventive concept related to real estate escrow. Applicant argues that Martin et al's inventive concept is merely an ATM for such payment as loan or debt due. Examiner respectfully disagrees with applicant's characterization of Martin et al's inventive concept. Martin et al clearly teach an inventive concept for managing a escrow account in a real estate transaction.

The Martin et al's disclosure is related to loan service payment that is related to a real estate purchased or refinanced by a customer. It is not simply an ATM machine to conduct banking transaction but an ATM network path that is used to facilitate debt payment: in this case mortgage. In Martins et al' system jut like in an other mortgage banking system, funds receive from customer are properly manage in order ensure that they are properly allocated. As indicate by the Applicant, Examiner relied upon table 1 column 14 as a rationale for the rejection. There is absolutely no confusion here, the impounded escrow is being managed by the loan servicer and such interpretation is valid. Therefore, Martin et al provided evidence of a managed escrow account.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

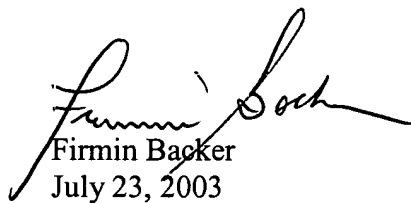


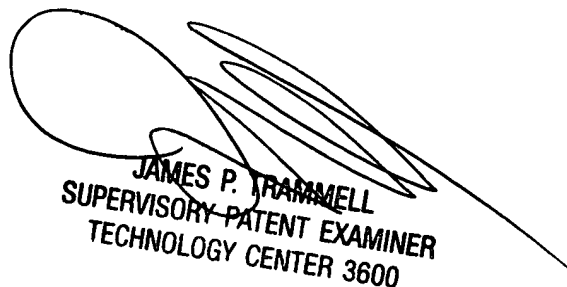
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Firmin Backer whose telephone number is (703) 305-0624. The examiner can normally be reached on Mon-Thu 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammel can be reached on (703) 305-9768. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-5484.

  
Firmin Backer  
July 23, 2003

  
JAMES P. TRAMMELL  
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